

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6111

BILL NUMBER: SB 137

NOTE PREPARED: Nov 18, 2012

BILL AMENDED:

SUBJECT: Independent Sales Representative Commissions.

FIRST AUTHOR: Sen. Hume

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: ☒ **GENERAL**
☐ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: The bill establishes the time at which a commission is due an independent sales representative who contracts with a principal to solicit orders for a product manufactured, produced, imported, or distributed by the principal. It provides that, when a contract between an independent sales representative and a principal is terminated, the principal shall pay a commission not later than 13 days after the commission is due, for commissions due after termination, or 13 days after the date of termination, for commissions due at termination.

The bill provides that a principal who fails to pay a commission when it is due is liable in a civil action for exemplary damages of not more than three times the sum of the commission owed, plus reasonable attorney's fees and court costs. It provides that a provision in a contract to waive the required payment times is void.

Effective Date: July 1, 2013.

Explanation of State Expenditures: The provision to pay a commission to an independent sales representative according to the required payments times outlined in the bill would apply to state government, if the state is acting as a principal who manufactures, produces, imports, or distributes a product for sale and hires a sales representative that is paid for, in whole or in part, by commission. The bill excludes any commissions on the sale or purchase of real estate. Any impact on the state that results from the bill is likely to be small.

Explanation of State Revenues: *Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court

of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment Fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: The provision to pay a commission to an independent sales representative according to the required payments times outlined in the bill would apply to any local unit of government that manufactures, produces, imports, or distributes a product for sale and hires a sales representative that is paid for, in whole or in part, by commission. The bill excludes any commissions on the sale or purchase of real estate. Any impact on local units that results from the bill is likely to be small.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also be required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected:

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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